

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: A.N. Schwartz et al. Attorney Docket No: SWTZ110464

Attorney Docket No: SWTZ110464

Serial No: 08/794,154 Group Art Unit: 3408

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Filed: February 3, 1997 Examiner: P. Nerbun

Examiner: P. Nerbun

Title: GOGGLES WITH PLIABLE AND RESILIENT SEALING PAD

PETITION FOR REMAND

Seattle, Washington 98101

October 15, 1998

BOARD OF PATENT
APPEALS &
INTERFERENCES

TO CHIEF JUDGE, BOARD OF PATENT APPEALS AND INTERFERENCES:

Applicants respectfully request that this application be remanded to the Examiner for the purpose of entry of an Amendment canceling Claims 13, 14, 48 and 49 from the application presently on appeal. This petition is based upon the following facts:

1. On March 26, 1997, the primary Examiner Peter Nerbun entered a Final Rejection of the claims in the pending application. See Paper No. 15 in Application No. 08/794,154. This Office Action also indicated that Claims 13, 14, 48 and 49 were objected to as being dependent upon a rejected base claim, but would be allowed if rewritten in independent form including all the limitations of the base claim and any of the intervening claim.

2. On June 24, 1997, applicants filed an appeal from the Final Rejection in this application.

3. On December 30, 1997, the Examiner filed his Answer in this appeal. See Paper No. 20 in application No. 08/794,154. Applicants filed a Reply Brief on March 2, 1998. See Paper No. 24. On September 25, 1998, this application was remanded to the Examiner for "a proper response to Reply Brief." See Paper No. 25.

1 4. In the meantime, applicants filed a new application (Serial No. 09/069,706) on
2 April 29, 1998. This new application included four new claims which restated Claims 13, 14, 48, and
3 49 from Application No. 08/794,154 in independent form including all of the limitations of rejected
4 base claim and any intervening claim, as suggested by the Examiner in his March 24, 1997 Office
5 Action.

6 5. On July 16, 1998, the Examiner mailed an Office Action in Application
7 No. 09/069,706, provisionally rejecting the four new claims under 35 U.S.C. § 101 as claiming the
8 same invention as Claims 13, 14, 48 and 49 of the co-pending Application No. 08/794,154. See
9 Exhibit A hereto.

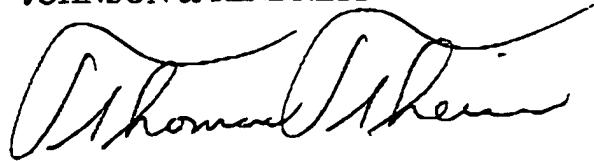
10 6. Applicants respectfully request that Application Serial No. 08/794,154 be remanded to
11 the Examiner for purpose of entry of an amendment canceling Claims 13, 14, 48 and 49 from that
12 application. See Exhibit B hereto.

13 Additional Fee Charges or Credit for Overpayment

14 The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16, 1.17 and
15 1.18 which may be required during the entire pendency of the application, or credit any overpayment,
16 to Deposit Account No. 03-1740. This authorization also hereby includes a request for any
17 extensions of time of the appropriate length required upon the filing of any reply during the entire
18 prosecution of this application. A copy of this sheet is enclosed.

19 Respectfully submitted,

20 CHRISTENSEN O'CONNOR
21 JOHNSON & KINDNESS^{PLLC}



22 Thomas D. Theisen
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1 I hereby certify that this correspondence is transmitted via facsimile addressed to: Facsimile No.
2 703.308.7952, Attn: Craig Kleinberg, U.S. Patent and Trademark Office, Board of Patent Appeals and Interferences,
3 Washington, D.C. 20231, on October 15, 1998.

4 Date: October 15, 1998

5 TDT:jk

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